

Exhibit 69

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CALIFORNIA BERRY CULTIVARS, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CALIFORNIA BERRY CULTIVARS, LLC,

Plaintiff,

v.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Defendant.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Cross-Complainant,

v.

CALIFORNIA BERRY CULTIVARS,
DOUGLAS SHAW, AND KIRK LARSON

Cross-Defendants.

Case No. 3:16-cv-02477-VC

**CALIFORNIA BERRY CULTIVARS,
LLC'S RESPONSES TO THE
REGENTS OF THE UNIVERSITY OF
CALIFORNIA'S FIRST SET OF
REQUESTS FOR ADMISSION
(NOS. 1 - 72)**

Pursuant to Rules 26 and 36 of the Federal Rule of Civil Procedure, Plaintiff California Berry Cultivars, LLC (“CBC”), submits the following objections and responses to The Regents of the University of California’s (“University’s”) First Set of Requests for Admissions (“Requests”).

GENERAL OBJECTIONS

A. CBC has not yet completed its discovery relating to this case, and its investigation of the facts therefore is continuing and will continue to and throughout the trial of this action. CBC’s responses and objections to the University’s Requests therefore are made without prejudice to CBC’s right to introduce any and all documents and other evidence of any kind in the proceedings in this action. CBC reserves the right at any time to revise, correct, clarify, supplement and/or amend the objections or responses set forth herein and any production made pursuant thereto.

B. CBC responds to the University’s Requests as it interprets and understands each Request set forth herein. If the University subsequently asserts an interpretation of any Request that differs from the understanding of CBC, then CBC reserves the right to supplement its objections and/or responses.

C. CBC objects to each Request to the extent it is inconsistent with or seeks to impose obligations beyond those imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, or any other applicable law or rules.

D. CBC objects to each Request on the ground and to the extent that the burden and/or expense of the proposed discovery outweighs any likely benefit of the discovery and is disproportionate to the needs of the case, taking into account, for example, the needs of the case, the importance of the issues at stake in the litigation, the parties’ relative access to relevant information, the parties’ resources, and the importance of the proposed discovery in resolving the issues. The Requests seek information not relevant to any claim or defense in the action, which is not proper subject matter for discovery under Rule 26 of the Federal Rules of Civil Procedure.

E. CBC objects to each Request to the extent it seeks discovery of information that is not in the possession, custody, or control of CBC. CBC objects to the definition of “CBC,” which is defined too broadly to include Persons, such as Persons acting pursuant to instruction

1 from CBC or under contract with CBC, on whose behalf CBC lacks the authority and knowledge
2 to respond. CBC similarly lacks the authority and knowledge to respond on behalf of members,
3 such as Douglas Shaw and Kirk Larson, with respect to such members' roles or activities outside
4 of the scope of their roles and activities as members of CBC. CBC provides the following
5 responses and objections on its behalf as CBC is defined above.

6 F. CBC objects to each Request to the extent that it seeks information protected by
7 the attorney-client privilege, the work product doctrine, the common interest privilege, Federal
8 Rule of Evidence 501 and/or any other applicable common law or statutory privileges, doctrines,
9 or immunities and the privilege with respect to non-testifying experts by the Federal Rules of
10 Civil Procedure. Such information is not within the scope of discovery under Rule 26 of the
11 Federal Rules of Civil Procedure and CBC will withhold any such privileged or protected
12 information. Any response made by CBC is made without in any way waiving the right to object,
13 on the grounds of competency, relevancy, materiality, privilege, or admissibility as evidence for
14 any purpose in any subsequent proceeding in, or the hearing of, this action or any other action.

15 G. In addition, CBC objects to each Request to the extent that it seeks discovery of: (i)
16 confidential information, trade secrets, and/or other proprietary business information; (ii) third
17 party confidential materials; and/or (iii) information that CBC is prohibited from disclosing by
18 contract, order, statute, rule, regulation, or law. Any such information that is provided will be
19 given subject to the adopted "Patent Local Rule 2-2 Interim Model Protective Order," (the
20 "Protective Order") and any new protective orders that may need to be negotiated by the parties
21 and approved by the Court. In the case of information subject to a confidentiality obligation
22 owed to a third party, CBC objects to revealing such information until it has requested and
23 received any necessary consent of the third party to the production of information. In the absence
24 of such consent or agreement, any such information will not be provided.

25 H. CBC objects to each Request to the extent that the University seeks information
26 and/or documents that refer or relate to a particular subject if it was intended by the University to
27 impose any requirement upon CBC to seek information from all of CBC employees, members,
28 affiliates, customers, and/or suppliers in a manner inconsistent with the Federal Rules of Civil

1 Procedure. In seeking information, CBC has made a focused inquiry of persons who are
2 reasonably likely to have such information and of other persons identified by these persons.

3 I. CBC's responses are based on its present knowledge, information, and belief.
4 CBC provides the following responses and objections in good faith and without prejudice to its
5 right to present information or documents subsequently discovered or determined to be
6 responsive and to amend or otherwise supplement its responses consistent with the Federal Rules
7 of Civil Procedure. Any response to any Request does not constitute an admission by CBC that it
8 agrees with any characterization, definition or assumption contained in such Request, or as to any
9 issue whatsoever. Except for facts explicitly admitted herein, no admission of any nature
10 whatsoever is to be implied by or inferred from the responses below.

11 J. By responding to these Requests, CBC does not waive objections to the admission
12 of these responses into evidence on the grounds of competence, relevance, materiality, or on any
13 other proper grounds for objection at trial. By asserting various objections, CBC does not waive
14 other objections that may become applicable. An answer to part or all of any Request is not
15 intended to be, and shall not be construed to be, a waiver of any part of any objection to the
16 Request.

17 K. CBC objects to the Requests to the extent that such Requests seek legal
18 conclusions.

19 All of the foregoing statements and General Objections are incorporated by reference
20 below into each separate response.

21 **REQUESTS FOR ADMISSION**

22 **REQUEST FOR ADMISSION NO. 1:**

23 Admit that CBC possesses Albion.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

25 In addition to the foregoing General Objections, CBC specifically objects to this Request
26 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
27 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
28 with CBC or members with respect to such members' roles or activities outside of the scope of

1 their roles and activities as members of CBC.

2 Subject to and without waiving the foregoing general and specific objections, CBC
3 responds as follows: CBC currently has plant material of the Albion variety in its possession.

4 **REQUEST FOR ADMISSION NO. 2:**

5 Admit that CBC obtained Albion from a Person that asexually reproduced Albion.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

7 In addition to the foregoing General Objections, CBC specifically objects to this Request
8 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
9 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
10 with CBC or members with respect to such members' roles or activities outside of the scope of
11 their roles and activities as members of CBC.

12 Subject to and without waiving the foregoing general and specific objections, CBC
13 responds as follows: CBC currently has plant material of the Albion variety, which it purchased
14 from a source it is informed and believes asexually reproduced plant material of the Albion
15 variety under a license from the University.

16 **REQUEST FOR ADMISSION NO. 3:**

17 Admit that CBC asexually reproduced Albion.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

19 In addition to the foregoing General Objections, CBC specifically objects to this Request
20 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
21 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
22 with CBC or members with respect to such members' roles or activities outside of the scope of
23 their roles and activities as members of CBC.

24 Subject to and without waiving the foregoing general and specific objections, CBC
25 responds as follows: Denied.

26 **REQUEST FOR ADMISSION NO. 4:**

27 Admit that CBC has used Albion for benchmarking.

28

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

CBC further objects to this Request as vague and ambiguous with respect to the term "benchmarking," which is undefined and subject to multiple interpretations.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC has purchased the plant material of the Albion variety to grow it for fruit production. More specifically, CBC has planted and grown Albion for fruit production, during which time CBC has observed the characteristics of the fruit and the plant, such as the size of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been harvested, CBC has destroyed all of its Albion plants at the end of the year in which they were planted.

REQUEST FOR ADMISSION NO. 5:

Admit that CBC has used Albion for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 6:

Admit that CBC has used a Plant Part of Albion for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 7:

Admit that CBC possesses Palomar.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 8:

Admit that CBC obtained Palomar from a Person that asexually reproduced Palomar.

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 9:

Admit that CBC asexually reproduced Palomar.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 10:

Admit that CBC has used Palomar for benchmarking.

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

CBC further objects to this Request as vague and ambiguous with respect to the term "benchmarking," which is undefined and subject to multiple interpretations.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 11:

Admit that CBC has used Palomar for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract

1 with CBC or members with respect to such members' roles or activities outside of the scope of
2 their roles and activities as members of CBC.

3 Subject to and without waiving the foregoing general and specific objections, CBC
4 responds as follows: Denied.

5 **REQUEST FOR ADMISSION NO. 12:**

6 Admit that CBC has used a Plant Part of Palomar for Breeding.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

8 In addition to the foregoing General Objections, CBC specifically objects to this Request
9 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
10 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
11 with CBC or members with respect to such members' roles or activities outside of the scope of
12 their roles and activities as members of CBC.

13 Subject to and without waiving the foregoing general and specific objections, CBC
14 responds as follows: Denied.

15 **REQUEST FOR ADMISSION NO. 13:**

16 Admit that CBC possesses Monterey.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

18 In addition to the foregoing General Objections, CBC specifically objects to this Request
19 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
20 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
21 with CBC or members with respect to such members' roles or activities outside of the scope of
22 their roles and activities as members of CBC.

23 Subject to and without waiving the foregoing general and specific objections, CBC
24 responds as follows: CBC currently has plant material of the Monterey variety in its possession.

25 **REQUEST FOR ADMISSION NO. 14:**

26 Admit that CBC obtained Monterey from a Person that asexually reproduced Monterey.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

28 In addition to the foregoing General Objections, CBC specifically objects to this Request

1 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
2 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
3 with CBC or members with respect to such members' roles or activities outside of the scope of
4 their roles and activities as members of CBC.

5 Subject to and without waiving the foregoing general and specific objections, CBC
6 responds as follows: CBC currently has plant material of the Monterey variety, which it
7 purchased from a source it is informed and believes asexually reproduced plant material of the
8 Monterey variety under a license from the University.

9 **REQUEST FOR ADMISSION NO. 15:**

10 Admit that CBC asexually reproduced Monterey.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

12 In addition to the foregoing General Objections, CBC specifically objects to this Request
13 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
14 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
15 with CBC or members with respect to such members' roles or activities outside of the scope of
16 their roles and activities as members of CBC.

17 Subject to and without waiving the foregoing general and specific objections, CBC
18 responds as follows: Denied.

19 **REQUEST FOR ADMISSION NO. 16:**

20 Admit that CBC has used Monterey for benchmarking.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

22 In addition to the foregoing General Objections, CBC specifically objects to this Request
23 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
24 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
25 with CBC or members with respect to such members' roles or activities outside of the scope of
26 their roles and activities as members of CBC.

27 CBC further objects to this Request as vague and ambiguous with respect to the term
28 "benchmarking," which is undefined and subject to multiple interpretations.

1 Subject to and without waiving the foregoing general and specific objections, CBC
2 responds as follows: CBC has purchased the plant material of the Monterey variety to grow it for
3 fruit production. More specifically, CBC has planted and grown Monterey for fruit production,
4 during which time CBC has observed the characteristics of the fruit and the plant, such as the size
5 of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit
6 and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been
7 harvested, CBC has destroyed all of its Monterey plants at the end of the year in which they were
8 planted.

9 **REQUEST FOR ADMISSION NO. 17:**

10 Admit that CBC has used Monterey for Breeding.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

12 In addition to the foregoing General Objections, CBC specifically objects to this Request
13 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
14 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
15 with CBC or members with respect to such members' roles or activities outside of the scope of
16 their roles and activities as members of CBC.

17 Subject to and without waiving the foregoing general and specific objections, CBC
18 responds as follows: Denied.

19 **REQUEST FOR ADMISSION NO. 18:**

20 Admit that CBC has used a Plant Part of Monterey for Breeding.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

22 In addition to the foregoing General Objections, CBC specifically objects to this Request
23 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
24 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
25 with CBC or members with respect to such members' roles or activities outside of the scope of
26 their roles and activities as members of CBC.

27 Subject to and without waiving the foregoing general and specific objections, CBC
28 responds as follows: Denied.

REQUEST FOR ADMISSION NO. 19:

Admit that CBC possesses San Andreas.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the San Andreas variety in its possession.

REQUEST FOR ADMISSION NO. 20:

Admit that CBC obtained San Andreas from a Person that asexually reproduced San Andreas.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the San Andreas variety, which it purchased from a source it is informed and believes asexually reproduced plant material of the San Andreas variety under a license from the University.

REQUEST FOR ADMISSION NO. 21:

Admit that CBC asexually reproduced San Andreas.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and

1 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
2 with CBC or members with respect to such members' roles or activities outside of the scope of
3 their roles and activities as members of CBC.

4 Subject to and without waiving the foregoing general and specific objections, CBC
5 responds as follows: Denied.

6 **REQUEST FOR ADMISSION NO. 22:**

7 Admit that CBC has used San Andreas for benchmarking.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

9 In addition to the foregoing General Objections, CBC specifically objects to this Request
10 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
11 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
12 with CBC or members with respect to such members' roles or activities outside of the scope of
13 their roles and activities as members of CBC.

14 CBC further objects to this Request as vague and ambiguous with respect to the term
15 "benchmarking," which is undefined and subject to multiple interpretations.

16 Subject to and without waiving the foregoing general and specific objections, CBC
17 responds as follows: CBC has purchased the plant material of the San Andreas variety to grow it
18 for fruit production. More specifically, CBC has planted and grown San Andreas for fruit
19 production, during which time CBC has observed the characteristics of the fruit and the plant,
20 such as the size of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then
21 harvested the fruit and has sold the fruit to purchasers who use the fruit to make juice. After the
22 fruit has been harvested, CBC has destroyed all of its San Andreas plants at the end of the year in
23 which they were planted.

24 **REQUEST FOR ADMISSION NO. 23:**

25 Admit that CBC has used San Andreas for Breeding.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

27 In addition to the foregoing General Objections, CBC specifically objects to this Request
28 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and

1 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
2 with CBC or members with respect to such members' roles or activities outside of the scope of
3 their roles and activities as members of CBC.

4 Subject to and without waiving the foregoing general and specific objections, CBC
5 responds as follows: Denied.

6 **REQUEST FOR ADMISSION NO. 24:**

7 Admit that CBC has used a Plant Part of San Andreas for Breeding.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

9 In addition to the foregoing General Objections, CBC specifically objects to this Request
10 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
11 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
12 with CBC or members with respect to such members' roles or activities outside of the scope of
13 their roles and activities as members of CBC.

14 Subject to and without waiving the foregoing general and specific objections, CBC
15 responds as follows: Denied.

16 **REQUEST FOR ADMISSION NO. 25:**

17 Admit that CBC possesses Portola.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

19 In addition to the foregoing General Objections, CBC specifically objects to this Request
20 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
21 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
22 with CBC or members with respect to such members' roles or activities outside of the scope of
23 their roles and activities as members of CBC.

24 Subject to and without waiving the foregoing general and specific objections, CBC
25 responds as follows: CBC currently has plant material of the Portola variety in its possession.

26 **REQUEST FOR ADMISSION NO. 26:**

27 Admit that CBC obtained Portola from a Person that asexually reproduced Portola.
28

RESPONSE TO REQUEST FOR ADMISSION NO. 26:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the Portola variety, which it purchased from a source it is informed and believes asexually reproduced plant material of the Portola variety under a license from the University.

REQUEST FOR ADMISSION NO. 27:

Admit that CBC asexually reproduced Portola.

RESPONSE TO REQUEST FOR ADMISSION NO. 27:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 28:

Admit that CBC has used Portola for benchmarking.

RESPONSE TO REQUEST FOR ADMISSION NO. 28:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

1 CBC further objects to this Request as vague and ambiguous with respect to the term
2 “benchmarking,” which is undefined and subject to multiple interpretations.

3 Subject to and without waiving the foregoing general and specific objections, CBC
4 responds as follows: CBC has purchased the plant material of the Portola variety to grow it for
5 fruit production. More specifically, CBC has planted and grown Portola for fruit production,
6 during which time CBC has observed the characteristics of the fruit and the plant, such as the size
7 of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit
8 and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been
9 harvested, CBC has destroyed all of its Portola plants at the end of the year in which they were
10 planted.

11 **REQUEST FOR ADMISSION NO. 29:**

12 Admit that CBC has used Portola for Breeding.

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

14 In addition to the foregoing General Objections, CBC specifically objects to this Request
15 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
16 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
17 with CBC or members with respect to such members’ roles or activities outside of the scope of
18 their roles and activities as members of CBC.

19 Subject to and without waiving the foregoing general and specific objections, CBC
20 responds as follows: Denied.

21 **REQUEST FOR ADMISSION NO. 30:**

22 Admit that CBC has used a Plant Part of Portola for Breeding.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

24 In addition to the foregoing General Objections, CBC specifically objects to this Request
25 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
26 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
27 with CBC or members with respect to such members’ roles or activities outside of the scope of
28 their roles and activities as members of CBC.

1 Subject to and without waiving the foregoing general and specific objections, CBC
2 responds as follows: Denied.

3 **REQUEST FOR ADMISSION NO. 31:**

4 Admit that CBC possesses Benicia.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

6 In addition to the foregoing General Objections, CBC specifically objects to this Request
7 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
8 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
9 with CBC or members with respect to such members' roles or activities outside of the scope of
10 their roles and activities as members of CBC.

11 Subject to and without waiving the foregoing general and specific objections, CBC
12 responds as follows: CBC currently has plant material of the Benicia variety in its possession.

13 **REQUEST FOR ADMISSION NO. 32:**

14 Admit that CBC obtained Benicia from a Person that asexually reproduced Benicia.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

16 In addition to the foregoing General Objections, CBC specifically objects to this Request
17 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
18 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
19 with CBC or members with respect to such members' roles or activities outside of the scope of
20 their roles and activities as members of CBC.

21 Subject to and without waiving the foregoing general and specific objections, CBC
22 responds as follows: CBC currently has plant material of the Benicia variety, which it purchased
23 from a source it is informed and believes asexually reproduced plant material of the Benicia
24 variety under a license from the University.

25 **REQUEST FOR ADMISSION NO. 33:**

26 Admit that CBC asexually reproduced Benicia.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

28 In addition to the foregoing General Objections, CBC specifically objects to this Request

1 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
2 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
3 with CBC or members with respect to such members' roles or activities outside of the scope of
4 their roles and activities as members of CBC.

5 Subject to and without waiving the foregoing general and specific objections, CBC
6 responds as follows: Denied.

7 **REQUEST FOR ADMISSION NO. 34:**

8 Admit that CBC has used Benicia for benchmarking.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

10 In addition to the foregoing General Objections, CBC specifically objects to this Request
11 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
12 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
13 with CBC or members with respect to such members' roles or activities outside of the scope of
14 their roles and activities as members of CBC.

15 CBC further objects to this Request as vague and ambiguous with respect to the term
16 "benchmarking," which is undefined and subject to multiple interpretations.

17 Subject to and without waiving the foregoing general and specific objections, CBC
18 responds as follows: CBC has purchased the plant material of the Benicia variety to grow it for
19 fruit production. More specifically, CBC has planted and grown Benicia for fruit production,
20 during which time CBC has observed the characteristics of the fruit and the plant, such as the size
21 of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit
22 and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been
23 harvested, CBC has destroyed all of its Benicia plants at the end of the year in which they were
24 planted.

25 **REQUEST FOR ADMISSION NO. 35:**

26 Admit that CBC has used Benicia for Breeding.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 35:**

28 In addition to the foregoing General Objections, CBC specifically objects to this Request

1 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
2 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
3 with CBC or members with respect to such members' roles or activities outside of the scope of
4 their roles and activities as members of CBC.

5 Subject to and without waiving the foregoing general and specific objections, CBC
6 responds as follows: Denied.

7 **REQUEST FOR ADMISSION NO. 36:**

8 Admit that CBC has used a Plant Part of Benicia for Breeding.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

10 In addition to the foregoing General Objections, CBC specifically objects to this Request
11 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
12 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
13 with CBC or members with respect to such members' roles or activities outside of the scope of
14 their roles and activities as members of CBC.

15 Subject to and without waiving the foregoing general and specific objections, CBC
16 responds as follows: Denied.

17 **REQUEST FOR ADMISSION NO. 37:**

18 Admit that CBC possesses Mojave.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

20 In addition to the foregoing General Objections, CBC specifically objects to this Request
21 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
22 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
23 with CBC or members with respect to such members' roles or activities outside of the scope of
24 their roles and activities as members of CBC.

25 Subject to and without waiving the foregoing general and specific objections, CBC
26 responds as follows: Denied.

27 **REQUEST FOR ADMISSION NO. 38:**

28 Admit that CBC obtained Mojave from a Person that asexually reproduced Mojave.

RESPONSE TO REQUEST FOR ADMISSION NO. 38:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 39:

Admit that CBC asexually reproduced Mojave.

RESPONSE TO REQUEST FOR ADMISSION NO. 39:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 40:

Admit that CBC has used Mojave for benchmarking.

RESPONSE TO REQUEST FOR ADMISSION NO. 40:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

CBC further objects to this Request as vague and ambiguous with respect to the term "benchmarking," which is undefined and subject to multiple interpretations.

1 Subject to and without waiving the foregoing general and specific objections, CBC
2 responds as follows: Denied.

3 **REQUEST FOR ADMISSION NO. 41:**

4 Admit that CBC has used Mojave for Breeding.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 41:**

6 In addition to the foregoing General Objections, CBC specifically objects to this Request
7 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
8 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
9 with CBC or members with respect to such members' roles or activities outside of the scope of
10 their roles and activities as members of CBC.

11 Subject to and without waiving the foregoing general and specific objections, CBC
12 responds as follows: Denied.

13 **REQUEST FOR ADMISSION NO. 42:**

14 Admit that CBC has used a Plant Part of Mojave for Breeding.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 42:**

16 In addition to the foregoing General Objections, CBC specifically objects to this Request
17 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
18 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
19 with CBC or members with respect to such members' roles or activities outside of the scope of
20 their roles and activities as members of CBC.

21 Subject to and without waiving the foregoing general and specific objections, CBC
22 responds as follows: Denied.

23 **REQUEST FOR ADMISSION NO. 43:**

24 Admit that CBC possesses Merced.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 43:**

26 In addition to the foregoing General Objections, CBC specifically objects to this Request
27 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
28 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract

1 with CBC or members with respect to such members' roles or activities outside of the scope of
2 their roles and activities as members of CBC.

3 Subject to and without waiving the foregoing general and specific objections, CBC
4 responds as follows: CBC currently has plant material of the Merced variety in its possession.

5 **REQUEST FOR ADMISSION NO. 44:**

6 Admit that CBC obtained Merced from a Person that asexually reproduced Merced.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 44:**

8 In addition to the foregoing General Objections, CBC specifically objects to this Request
9 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
10 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
11 with CBC or members with respect to such members' roles or activities outside of the scope of
12 their roles and activities as members of CBC.

13 Subject to and without waiving the foregoing general and specific objections, CBC
14 responds as follows: CBC currently has plant material of the Merced variety, which it purchased
15 from a source it is informed and believes asexually reproduced plant material of the Merced
16 variety under a license from the University.

17 **REQUEST FOR ADMISSION NO. 45:**

18 Admit that CBC asexually reproduced Merced.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 45:**

20 In addition to the foregoing General Objections, CBC specifically objects to this Request
21 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
22 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
23 with CBC or members with respect to such members' roles or activities outside of the scope of
24 their roles and activities as members of CBC.

25 Subject to and without waiving the foregoing general and specific objections, CBC
26 responds as follows: Denied.

27 **REQUEST FOR ADMISSION NO. 46:**

28 Admit that CBC has used Merced for benchmarking.

RESPONSE TO REQUEST FOR ADMISSION NO. 46:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

CBC further objects to this Request as vague and ambiguous with respect to the term "benchmarking," which is undefined and subject to multiple interpretations.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC has purchased the plant material of the Merced variety to grow it for fruit production. More specifically, CBC has planted and grown Merced for fruit production, during which time CBC has observed the characteristics of the fruit and the plant, such as the size of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been harvested, CBC has destroyed all of its Merced plants at the end of the year in which they were planted.

REQUEST FOR ADMISSION NO. 47:

Admit that CBC has used Merced for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 47:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 48:

Admit that CBC has used a Plant Part of Merced for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 48:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 49:

Admit that CBC possesses Petaluma.

RESPONSE TO REQUEST FOR ADMISSION NO. 49:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the Petaluma variety in its possession.

REQUEST FOR ADMISSION NO. 50:

Admit that CBC obtained Petaluma from a Person that asexually reproduced Petaluma.

RESPONSE TO REQUEST FOR ADMISSION NO. 50:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the Petaluma variety, which it purchased

1 from a source it is informed and believes asexually reproduced plant material of the Petaluma
2 variety under a license from the University.

3 **REQUEST FOR ADMISSION NO. 51:**

4 Admit that CBC asexually reproduced Petaluma.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 51:**

6 In addition to the foregoing General Objections, CBC specifically objects to this Request
7 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
8 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
9 with CBC or members with respect to such members' roles or activities outside of the scope of
10 their roles and activities as members of CBC.

11 Subject to and without waiving the foregoing general and specific objections, CBC
12 responds as follows: Denied.

13 **REQUEST FOR ADMISSION NO. 52:**

14 Admit that CBC has used Petaluma for benchmarking.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 52:**

16 In addition to the foregoing General Objections, CBC specifically objects to this Request
17 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
18 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
19 with CBC or members with respect to such members' roles or activities outside of the scope of
20 their roles and activities as members of CBC.

21 CBC further objects to this Request as vague and ambiguous with respect to the term
22 "benchmarking," which is undefined and subject to multiple interpretations.

23 Subject to and without waiving the foregoing general and specific objections, CBC
24 responds as follows: CBC has purchased the plant material of the Petaluma variety to grow it for
25 fruit production. More specifically, CBC has planted and grown Petaluma for fruit production,
26 during which time CBC has observed the characteristics of the fruit and the plant, such as the size
27 of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit
28 and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been

1 harvested, CBC has destroyed all of its Petaluma plants at the end of the year in which they were
2 planted.

3 **REQUEST FOR ADMISSION NO. 53:**

4 Admit that CBC has used Petaluma for Breeding.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 53:**

6 In addition to the foregoing General Objections, CBC specifically objects to this Request
7 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
8 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
9 with CBC or members with respect to such members' roles or activities outside of the scope of
10 their roles and activities as members of CBC.

11 Subject to and without waiving the foregoing general and specific objections, CBC
12 responds as follows: Denied.

13 **REQUEST FOR ADMISSION NO. 54:**

14 Admit that CBC has used a Plant Part of Petaluma for Breeding.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 54:**

16 In addition to the foregoing General Objections, CBC specifically objects to this Request
17 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
18 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
19 with CBC or members with respect to such members' roles or activities outside of the scope of
20 their roles and activities as members of CBC.

21 Subject to and without waiving the foregoing general and specific objections, CBC
22 responds as follows: Denied.

23 **REQUEST FOR ADMISSION NO. 55:**

24 Admit that CBC possesses Grenada.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 55:**

26 In addition to the foregoing General Objections, CBC specifically objects to this Request
27 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
28 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract

1 with CBC or members with respect to such members' roles or activities outside of the scope of
2 their roles and activities as members of CBC.

3 Subject to and without waiving the foregoing general and specific objections, CBC
4 responds as follows: CBC currently has plant material of the Grenada variety in its possession.

5 **REQUEST FOR ADMISSION NO. 56:**

6 Admit that CBC obtained Grenada from a Person that asexually reproduced Grenada.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 56:**

8 In addition to the foregoing General Objections, CBC specifically objects to this Request
9 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
10 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
11 with CBC or members with respect to such members' roles or activities outside of the scope of
12 their roles and activities as members of CBC.

13 Subject to and without waiving the foregoing general and specific objections, CBC
14 responds as follows: CBC currently has plant material of the Grenada variety, which it purchased
15 from a source it is informed and believes asexually reproduced plant material of the Grenada
16 variety under a license from the University.

17 **REQUEST FOR ADMISSION NO. 57:**

18 Admit that CBC asexually reproduced Grenada.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 57:**

20 In addition to the foregoing General Objections, CBC specifically objects to this Request
21 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
22 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
23 with CBC or members with respect to such members' roles or activities outside of the scope of
24 their roles and activities as members of CBC.

25 Subject to and without waiving the foregoing general and specific objections, CBC
26 responds as follows: Denied.

27 **REQUEST FOR ADMISSION NO. 58:**

28 Admit that CBC has used Grenada for benchmarking.

RESPONSE TO REQUEST FOR ADMISSION NO. 58:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

CBC further objects to this Request as vague and ambiguous with respect to the term "benchmarking," which is undefined and subject to multiple interpretations.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC has purchased the plant material of the Grenada variety to grow it for fruit production. More specifically, CBC has planted and grown Grenada for fruit production, during which time CBC has observed the characteristics of the fruit and the plant, such as the size of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been harvested, CBC has destroyed all of its Grenada plants at the end of the year in which they were planted.

REQUEST FOR ADMISSION NO. 59:

Admit that CBC has used Grenada for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 59:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 60:

Admit that CBC has used a Plant Part of Grenada for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 60:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 61:

Admit that CBC possesses Fronteras.

RESPONSE TO REQUEST FOR ADMISSION NO. 61:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the Fronteras variety in its possession.

REQUEST FOR ADMISSION NO. 62:

Admit that CBC obtained Fronteras from a Person that asexually reproduced Fronteras.

RESPONSE TO REQUEST FOR ADMISSION NO. 62:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC currently has plant material of the Fronteras variety, which it purchased

1 from a source it is informed and believes asexually reproduced plant material of the Fronteras
2 variety under a license from the University.

3 **REQUEST FOR ADMISSION NO. 63:**

4 Admit that CBC asexually reproduced Fronteras.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 63:**

6 In addition to the foregoing General Objections, CBC specifically objects to this Request
7 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
8 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
9 with CBC or members with respect to such members' roles or activities outside of the scope of
10 their roles and activities as members of CBC.

11 Subject to and without waiving the foregoing general and specific objections, CBC
12 responds as follows: Denied.

13 **REQUEST FOR ADMISSION NO. 64:**

14 Admit that CBC has used Fronteras for benchmarking.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 64:**

16 In addition to the foregoing General Objections, CBC specifically objects to this Request
17 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
18 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
19 with CBC or members with respect to such members' roles or activities outside of the scope of
20 their roles and activities as members of CBC.

21 CBC further objects to this Request as vague and ambiguous with respect to the term
22 "benchmarking," which is undefined and subject to multiple interpretations.

23 Subject to and without waiving the foregoing general and specific objections, CBC
24 responds as follows: CBC has purchased the plant material of the Fronteras variety to grow it for
25 fruit production. More specifically, CBC has planted and grown Fronteras for fruit production,
26 during which time CBC has observed the characteristics of the fruit and the plant, such as the size
27 of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit
28 and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been

1 harvested, CBC has destroyed all of its Fronteras plants at the end of the year in which they were
2 planted.

3 **REQUEST FOR ADMISSION NO. 65:**

4 Admit that CBC has used Fronteras for Breeding.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 65:**

6 In addition to the foregoing General Objections, CBC specifically objects to this Request
7 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
8 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
9 with CBC or members with respect to such members' roles or activities outside of the scope of
10 their roles and activities as members of CBC.

11 Subject to and without waiving the foregoing general and specific objections, CBC
12 responds as follows: Denied.

13 **REQUEST FOR ADMISSION NO. 66:**

14 Admit that CBC has used a Plant Part of Fronteras for Breeding.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 66:**

16 In addition to the foregoing General Objections, CBC specifically objects to this Request
17 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
18 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
19 with CBC or members with respect to such members' roles or activities outside of the scope of
20 their roles and activities as members of CBC.

21 Subject to and without waiving the foregoing general and specific objections, CBC
22 responds as follows: Denied.

23 **REQUEST FOR ADMISSION NO. 67:**

24 Admit that CBC possesses Cabrillo.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 67:**

26 In addition to the foregoing General Objections, CBC specifically objects to this Request
27 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
28 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract

1 with CBC or members with respect to such members' roles or activities outside of the scope of
2 their roles and activities as members of CBC.

3 Subject to and without waiving the foregoing general and specific objections, CBC
4 responds as follows: CBC currently has plant material of the Cabrillo variety in its possession.

5 **REQUEST FOR ADMISSION NO. 68:**

6 Admit that CBC obtained Cabrillo from a Person that asexually reproduced Cabrillo.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 68:**

8 In addition to the foregoing General Objections, CBC specifically objects to this Request
9 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
10 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
11 with CBC or members with respect to such members' roles or activities outside of the scope of
12 their roles and activities as members of CBC.

13 Subject to and without waiving the foregoing general and specific objections, CBC
14 responds as follows: CBC currently has plant material of the Cabrillo variety, which it purchased
15 from a source it is informed and believes asexually reproduced plant material of the Cabrillo
16 variety under a license from the University.

17 **REQUEST FOR ADMISSION NO. 69:**

18 Admit that CBC asexually reproduced Cabrillo.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 69:**

20 In addition to the foregoing General Objections, CBC specifically objects to this Request
21 to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and
22 knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract
23 with CBC or members with respect to such members' roles or activities outside of the scope of
24 their roles and activities as members of CBC.

25 Subject to and without waiving the foregoing general and specific objections, CBC
26 responds as follows: Denied.

27 **REQUEST FOR ADMISSION NO. 70:**

28 Admit that CBC has used Cabrillo for benchmarking.

RESPONSE TO REQUEST FOR ADMISSION NO. 70:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

CBC further objects to this Request as vague and ambiguous with respect to the term "benchmarking," which is undefined and subject to multiple interpretations.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: CBC has purchased the plant material of the Cabrillo variety to grow it for fruit production. More specifically, CBC has planted and grown Cabrillo for fruit production, during which time CBC has observed the characteristics of the fruit and the plant, such as the size of fruit, the appearance of the fruit, and the firmness of the fruit. CBC has then harvested the fruit and has sold the fruit to purchasers who use the fruit to make juice. After the fruit has been harvested, CBC has destroyed all of its Cabrillo plants at the end of the year in which they were planted.

REQUEST FOR ADMISSION NO. 71:

Admit that CBC has used Cabrillo for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 71:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

REQUEST FOR ADMISSION NO. 72:

Admit that CBC has used a Plant Part of Cabrillo for Breeding.

RESPONSE TO REQUEST FOR ADMISSION NO. 72:

In addition to the foregoing General Objections, CBC specifically objects to this Request to the extent it seeks information regarding Persons on whose behalf CBC lacks the authority and knowledge to respond, such as Persons acting pursuant to instruction from CBC or under contract with CBC or members with respect to such members' roles or activities outside of the scope of their roles and activities as members of CBC.

Subject to and without waiving the foregoing general and specific objections, CBC responds as follows: Denied.

Dated: July 8, 2016

JONES DAY

By: /s/Greg L. Lippetz
Greg L. Lippetz

Attorneys for Plaintiff and Cross-Defendant
CALIFORNIA BERRY CULTIVARS, LLC

PROOF OF SERVICE

I, Jamie Daniels, declare:

I am a citizen of the United States and employed in Santa Clara County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1755 Embarcadero Road, Palo Alto, California 94303. On July 8, 2016, I served a copy of the within document(s):

**CALIFORNIA BERRY CULTIVARS, LLC'S RESPONSES TO THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA'S FIRST SET OF REQUESTS FOR ADMISSION
(NOS. 1 - 72)**

by e-mailing a copy thereof to the following individual(s) at the following e-mail addresses:

Matthew Alan Chivvis
(mchivvis@mofo.com)
Rachel Krevans (rkrevans@mofo.com)
Wesley Overson
(woverson@mofo.com)
Morrison & Foerster
425 Market Street
San Francisco, CA 94105

Attorneys for Defendant
The Regents of the University of
California

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 8, 2016, at Palo Alto, California.

/s/Jamie Daniels
Jamie Daniels